

DRAFT OMB SUPPORTING STATEMENT FOR
REPORTING AND RECORDKEEPING REQUIREMENTS FOR
EXPORT AND IMPORT OF NUCLEAR EQUIPMENT AND MATERIAL
10 CFR PART 110
(3150-0036)

Extension

DESCRIPTION OF THE INFORMATION COLLECTION

The Nuclear Regulatory Commission (NRC), under the Atomic Energy Act of 1954, as amended (AEA), and Title II of the Energy Reorganization Act of 1974, as amended, has authority for exercising export and import controls over nuclear equipment and material as specified in 10 CFR §§ 110.8, 110.9, and 110.9a. Any person who wishes to export or import nuclear equipment and material under the provisions in 10 CFR Part 110 must provide certain information collection elements to enable the NRC and the Executive Branch to make required export and import licensing determinations. In support of the reporting requirements pursuant to 10 CFR 110.50(c), optional NRC forms 830, 830A, 831 and 831A have been developed (see NRC Public Web site at <http://www.nrc.gov>) to assist licensees in submitting prior shipment notifications.

A. JUSTIFICATION

1. Need for and Practical Utility of the Collection of Information

Section 110.7a(a) states information provided to the Commission by an applicant for a license or by a licensee or information required by statute or by the Commission's regulations, orders, or license conditions to be maintained by the applicant or the licensee shall be complete and accurate in all material respects.

Section 110.7a(b) requires that each applicant or licensee notify the Administrator of the appropriate NRC Regional Office within two working days of identifying any information that has a significant implication for public health and safety or common defense and security on a regulated activity.

All persons who wish to export or import nuclear equipment and material as specified in 10 CFR §§ 110.8, 110.9, and 110.9a must provide certain information collection elements to enable the NRC and the Executive Branch to make required export and import licensing determinations to ensure compliance with NRC regulations and to satisfy statutory requirements of the AEA.

Section 110.20(a) states that a person may use an NRC general license as authority to export or import nuclear equipment or material, if the nuclear equipment or material to be exported or imported is covered by the NRC general licenses described in §§ 110.21 through 110.27. If an export or import is not covered by the NRC general licenses described in §§ 110.21 through 110.27, a

person must file an application with the Commission for a specific license in accordance with §§ 110.31 through 110.32.

Section 110.23(a)(5)(iii) states that all exports of americium are subject to the reporting requirements listed in 110.54(b).

Section 110.23(a)(6) states that all exports of neptunium are subject to the reporting requirements listed in 110.54(b).

Section 110.26(d) states that the general license does not authorize the export of essentially complete reactors through piecemeal exports of facility components. When individual exports of components would amount in the aggregate to export of an essentially complete nuclear reactor, a facility export license is required.

Section 110.26(e) states that all exports of nuclear reactor components under paragraph (a) of this section are subject to the reporting requirements in 110.54(c).

Section 110.27(d) states that persons using the general license for imports of formula quantities of strategic special nuclear material (as defined in 73.2 of this chapter) under this general license shall provide the notifications required in § 73.27 and § 73.72 of this chapter.

Section 110.31(a) states that a person shall file an application for a specific license to export or import with the Deputy Director of the NRC's Office of International Programs, using an appropriate method listed in § 110.4.

Section 110.31(b) states that applications for an export, import, amendment or renewal licenses or a request for an exemption from a licensing requirement under this part shall be filed on NRC Form 7.

Section 110.31(c) states that an application for a specific license to export and import or a request for an exemption from a licensing requirement must be accompanied by the appropriate fee in accordance with the fee schedules in § 170.21 and § 170.31. A license application will not be processed unless the specified fee is received.

Section 110.31(g) states that the applicant shall withdraw an application when it is no longer needed. The Commission's official files retain all documents related to a withdrawn application.

Section 110.32, 'Information required in an application for a specific license/NRC Form 7,' specifies the data elements and supplemental documentation required from an applicant used to determine whether or not to grant a license.

Section 110.50(a)(8) states that a licensee shall not proceed to export or import and shall notify the Commission promptly if he knows or has reason to believe that the packaging requirements of part 71 of this chapter have not been met.

Section 110.50(b)(3) states that unless a license specifically authorizes the export of certain foreign-obligated nuclear material or equipment, a licensee may not ship such material or equipment until the licensee has requested and the Commission has issued an amendment to the license authorizing such shipment; or the licensee has given at least 40 days advance notice of the intended shipment in writing to the Deputy Director, Office of International Programs (OIP); and the Deputy Director, OIP has obtained confirmation, through either the Department of Energy or State, that the foreign government in question has given its consent to the intended shipment pursuant to its agreement for cooperation with the United States; and communicated this in writing to the licensee.

Section 110.50(c), 'Advanced notification,' states that a licensee authorized to export or import the radioactive material listed in Appendix P to this part is responsible for notifying NRC and, in cases of exports, the government of the importing country in advance of each shipment. A list of points of contact in importing countries is available at NRC's Office of International Programs Web site, accessible on the NRC Public Web site at <http://www.nrc.gov>.

Section 110.51, 'Amendment and renewal of licenses,' states that applications for amendment of a specific license be filed on NRC Form 7 in accordance with §§ 110.31 and 110.32 and shall specify the respects in which the licensee desires the license to be amended and the grounds for such amendment.

Section 110.52(b), 'Revocation, suspension, and modification,' states that the Commission may require further information from a licensee to determine whether a license should be revoked, suspended, or modified.

Section 110.53(b)(1), 'United States address, records, and inspections,' states that each license applicant or licensee (general or specific) shall maintain records concerning his exports or imports. The licensee shall retain these records for five years after each export or import except that byproduct material records must be retained for three years after the date of each export or import shipment.

Section 110.53(b)(2) states that records which must be maintained pursuant to this part may be the original or a reproduced copy or microform if such reproduced copy or microform is duly authenticated by authorized personnel and the microform is capable of producing a clear and legible copy after storage for the period specified by Commission regulations. The record may also be stored in electronic media with the capability for producing legible, accurate, and complete records during the required retention period. Records such as letters, drawings, specifications, must include all pertinent information such as stamps, initials, and signatures. The licensee shall maintain adequate safeguards against tampering with and loss of records.

Section 110.54, Reporting requirements, states that reports of exports of nuclear facilities and equipment, nuclear grade graphite for nuclear end use, and deuterium shipped during the previous quarter must be submitted by licensees

making exports under the general license or specific license of this part by January 15, April 15, July 15, and October 15 of each year on DOC/NRC Forms AP-M or AP-13, and associated forms. The reports must contain information on all nuclear facilities, equipment, and non-nuclear materials (nuclear grade graphite for nuclear end use and deuterium) listed in Annex II of the Additional Protocol.

Persons making exports under the general license established by § 110.23(a) or under a specific license shall submit by February 1 of each year one copy of a report of all americium and neptunium shipments during the previous calendar year. This report shall be submitted to the Deputy Director, Office of International Programs at the address provided in § 110.4. The report must include a description of the material, including quantity in TBq and gram, approximate shipment dates and a list of recipient countries, end users, and intended use keyed to the items shipped.

Persons making exports under the general license established by § 110.26(a) shall submit by February 1 of each year one copy of a report of all components shipped during the previous calendar year. This report shall be submitted to the Deputy Director, Office of International Programs at the address provided in § 110.4. This report must include a description of the components keyed to the categories listed in appendix A to this part, approximate shipment dates, and a list of recipient countries and end users keyed to the items shipped.

2. Agency Use of Information

The requirement of § 110.7a (a), that information provided to the Commission by an applicant for a license or by a licensee or information required by statute or by the Commission's regulations, orders, or license conditions to be maintained by the applicant or the licensee shall be complete and accurate in all material respects is essential to ensure that licensees not withhold or misrepresent material facts which could impact a license determination.

The notification requirement in § 110.7a (b) enhances the capability of the Commission to respond rapidly and effectively if such a threat were to materialize on a regulated activity.

The information obtained from persons who wish to export or import nuclear equipment and material as specified in 10 CFR §§ 110.8, 110.9, and 110.9a is necessary to make required export and import licensing determinations, as well as to ensure compliance with NRC regulations which satisfy statutory requirements of the AEA.

Section 110.20(a) explains how the regulations work to determine if a person may use an NRC general license as authority to export or import nuclear equipment or material, if the nuclear equipment or material to be exported or imported is covered by the NRC general licenses described in §§ 110.21 through 110.27. If an export or import is not covered by the NRC general licenses

described in §§ 110.21 through 110.27, a person must file an application with the Commission for a specific license in accordance with §§ 110.31 through 110.32.

The requirement in Section 110.23(a)(5)(iii) to provide annual reports of americium exported under general license required by § 110.54(b) provide the NRC with data which the U.S. Government must report to the International Atomic Energy Agency (IAEA).

The requirement in Section 110.23(a)(6) to provide annual reports of neptunium exported under general license required by § 110.54(b) provide the NRC with data which the U.S. Government must report to the IAEA.

Section 110.26(d) is necessary in order to prevent the export of a complete reactor system through piecemeal exports of separate components under the NRC general license. In such an instance, a facility export license is required.

The requirement in Section 110.26(e) to provide annual reports of components exported under general license required by § 110.54(c) provide NRC with additional assurance against the improper accumulation of sensitive components in the country of import.

The notice of import of a formula quantity of strategic special nuclear material required by § 110.27(d) is used to ensure that the material is adequately protected at all times within the geographical limits of the U.S.

License applications required by §§ 110.31 and 110.32 are used by the Commission and the Executive Branch to make required export and import licensing determinations. If applicable statutory, regulatory, and policy considerations are satisfied, the NRC will issue a license authorizing the export or import.

Notices of defective packaging required by § 110.50(a)(8) facilitate NRC's ability to enforce the packaging requirements of 10 CFR Part 71 and to take possible enforcement action against licensees for packaging violations.

The requirement in § 110.50(b)(3) to notify the NRC in writing at least 40 days prior to shipment of foreign nuclear equipment or material unless a license specifically authorizes the export of foreign nuclear equipment or material enables the U.S. Government to obtain confirmation that the foreign government has given its consent to the intended export.

Prior notification of shipments of radioactive materials listed in Appendix P required by § 110.50(c) is used to track this material within the U.S. and to detect any diversions of the material.

The additional information that the Commission may require from licensees as specified in § 110.52(b) is used by the NRC to make necessary statutory,

regulatory, and policy determinations in connection with prospective actions to revoke, suspend or modify an export or import license.

Applications for amendments required by §§ 110.51 are used by the Commission and the Executive Branch to make required export and import licensing determinations. If applicable statutory, regulatory, and policy considerations are satisfied, the NRC will issue an amended license authorizing the export or import.

Shipment records required by § 110.53(b) are used for NRC inspection to ensure compliance with regulations and are necessary in connection with prospective enforcement actions against possible violators of 10 CFR Part 110.

The requirement in Section 110.54(b) to submit annual reports of americium and neptunium exported under general license provide the NRC with data which the U.S. Government must report to the IAEA.

The requirement in Section 110.54(c) to submit annual reports of components exported under general license provide NRC with additional assurance against the improper accumulation of sensitive components in the country of import.

3. Reduction of Burden Through Information Technology

There are no legal obstacles to reducing the burden associated with this information collection. The NRC encourages respondents to use information technology when it would be beneficial to them. NRC issued a regulation on October 10, 2003 (68 FR 58791), consistent with the Government Paperwork Elimination Act, which allows licensees, vendors, applicants, and members of the public the option to make submissions electronically via CD-ROM, e-mail, special Web-based interface, or other means. The mandatory prior notifications under § 110.50(c) can be submitted electronically, and optional reporting forms for import and export notifications will be made available from the NRC web site. All of these notifications are now being transmitted to the NRC either by telefax or email.

4. Effort to Identify Duplication and Use Similar Information

No sources of similar information are available. There is no duplication of requirements. NRC has in place an ongoing program to examine all information collections with the goal of eliminating all duplication and/or unnecessary information collections.

5. Effort to Reduce Small Business Burden

The requirements specified in 10 CFR Part 110 are the same for large and small businesses, because the proliferation and policy concerns are the same; thus, all businesses must provide the same data.

6. Consequences to Federal Program or Policy Activities if the Collection is Not Conducted or is Conducted Less Frequently

Failure to provide complete and accurate information on all applications as specified in § 110.7a could result in an unreliable applicant obtaining an import or export authorization.

Failure to fully comply with § 110.7a(b) could result in a licensee not providing information that has significant implications for public health and safety or common defense and security.

Failure to fully comply with §§ 110.8, 110.9, and 110.9(a) could result in unauthorized and unregulated import or export of material and equipment subject to NRC licensing jurisdiction.

The information requested in §§ 110.31-32 is the minimum amount necessary for NRC to fulfill the statutory and regulatory requirements governing exports and imports of nuclear material and equipment. The information is submitted only when deemed necessary and is keyed to the decision criteria that guides the NRC in approving or denying applications. Schedules are not imposed. If the collection is less frequent, a person who wishes to export or import under 10 CFR Part 110 would be unable to do so because the NRC could not make the necessary determinations to approve applications.

If the collection in § 110.50(a)(8) is less frequent, the licensee could possibly ship improperly packaged nuclear materials which may endanger the health and safety of the public.

If the collection in § 110.50(b)(3) is less frequent, the U.S. Government might violate the provisions of U.S. bilateral agreements with other Governments. The report is not frequently required because the origin of the material is normally identified before the export license is issued, and, accordingly, is authorized for export on the face of the license.

The records maintained in § 110.53 are largely common business records and do not contain any special requirements, therefore, the regulatory impact is minimal. If the information is provided less frequently, the NRC would be unable to verify compliance with requirements in a timely manner.

The reporting requirements in 110.54 provide trade statistics for strategic exports and support international obligations to report certain exports under general license authorizations. The information requested in § 110.54(b) must be collected on a yearly basis to comply with a U.S. Government reporting commitment to the IAEA. The reporting requirement in § 110.54(c) is reasonable and less burdensome on exporters than submitting specific license applications.

7. Circumstances Which Justify Variation From OMB Guidelines

The reason for retaining records for five years for each export or import except for byproduct material, where records shall be retained for three years, is that these exports or imports are relatively more important with respect to nuclear nonproliferation.

Requiring the applicant or licensee to notify the Commission within two days of identifying information having a significant implication for public health and safety or common defense and security on a regulated activity enables the Commission to respond rapidly and effectively to a threat to the public health and safety or the common defense and security. This collection requirement is contained in other parts of NRC's regulations. No notifications are expected.

8. Consultations Outside the NRC

Opportunity for public comment on the information collection requirements for this clearance package has been published in the Federal Register.

9. Payment or Gift to Respondents

Not applicable.

10. Confidentiality of the Information

Confidential and proprietary information is protected in accordance with NRC regulations at 10 CFR 9.17 (a) and 10 CFR 2.390 (b)

11. Justification for Sensitive Questions

There are no sensitive questions.

12. Estimated Burden and Burden Hour Cost

The annual public burden for this information collection is 809 hours. There are approximately 136 record keepers for exporters/importers of nuclear material and equipment. All licensees comply equally with the collections in §§ 110.23(a)(5)(iii), 110.23(b)(6), 110.26(e), 110.27(d), 110.31(f), 110.50(a)(8), 110.50(b)(3), 110.50(c), 110.51, 110.52(b) and 110.54. Based upon information from exporters and importers and using the current average cost of \$274 per hour for reactor licensees and material licensees, a reasonable estimate of the annual burden of 10 CFR Part 110 requirements on industry is as follows:

ANNUAL REPORTING BURDEN

Section	Annual No. of Respondents	Annual No. of Responses per Respondent	No. of Responses	Burden Per Response	Total Annual Burden Hours	Total Annual Cost (\$274)
110.31(g)	1	1	1	1	1	\$274
110.32	27	0	0	0	0	0
110.50(a)(8)	1	1	1	.5	.5	\$137
110.50(b)(3)	14	1	14	.5	7	\$1,918
110.50(c)- no form	36	50	1,800	.25	450	\$123,300
110.50(c)- with form	6	100	600	.2	120	\$32,880
110.50(c) add'l follow-up	6	5	30	.2	6	\$1,644
110.52(b)	1	1	1	.5	.5	\$137
110.54(b)	24	1	24	2	48	\$13,152
110.54(c)	20	1	20	2	40	\$10,960
TOTAL	136		2,491		673	\$184,402

ANNUAL RECORDKEEPING BURDEN

Section	Annual No. of Record keepers	Annual Hours per Record Keeper	Total Annual Burden Hours	Total Annual Cost
110.53(b)(2)	136	1.0	136	\$37,264
TOTAL	136		136	\$37,264

Total Number of Respondents: 136

Total Number of Responses: 2,627

Total Number of Record keepers: 136

Total Reporting Burden: 673 hours

Total Recordkeeping Burden: 136 hours

Total Burden: 809 hours (673 Reporting + 136 Recordkeeping) at a cost of \$221,666 (809 hrs. x \$274).

13. Estimate of Other Additional Costs

For licensees subject to 10 CFR Part 110, it is most likely that any purchases of equipment and services were made before October 1, 1995, in order to achieve regulatory compliance with requirements not associated with this information collection, for reasons other than to provide information or keep records for the government, or as part of customary and usual business or private practices.

NRC estimates that the storage and equipment costs for licensees subject to this information collection are approximately \$22.50 per license, based on a rate of \$45 per square foot of filing space. The recordkeeping burden is roughly proportional to the quantity of records to be maintained. Based on the number of active licenses issued annually, the total annual records storage cost is estimated to be equal to the per license rate of \$22.50 x (130 record keepers) x (an average of 3.42 licenses issued per year per record keeper) x (5 years of required record retention) or \$50,017.50. Based on the number of licenses maintained by a licensee, the record storage cost has been determined to be equal to .0004 times the recordkeeping burden cost. Therefore the storage cost for this clearance is insignificant ($\$14.91 = 136 \text{ recordkeeping hours} \times \$274/\text{hr} \times .0004$).

14. Estimated Annualized Cost to the Federal Government

The collection of information under 10 CFR Part 110 requires approximately 131 NRC professional staff hours per year to investigate, review and take action on the reported information associated with the collections referred to above. The annual labor cost to the Federal Government at an average of \$274 per staff hour for reactor and materials licensees is \$36,168 (132 hours x \$274). The costs for OMB 3150-0036 are recovered fully through fee assessments to NRC licensees pursuant to 10 CFR Parts 170 and 171. The following table summarizes the burden calculation:

Section	Annual No. of Respondents	Annual No. of Responses per Respondent	No. of Responses	Hours Per Response	Total Annual Burden Hours	Total Annual Cost (\$274)
110.31(g)	1	1	1	1	1	\$274
110.32(f)	27	0	0	0	0	\$0
110.50(a)(8)	1	1	1	0.5	0.5	\$137
110.50(b)(3)	14	1	14	0.5	7	\$1,918
110.50(c) no reporting form	36	50	1,800	.0125	22.5	\$6,165
110.50(c)-with form	6	100	600	.0100	6	\$1,644
110.50(c) additional follow-up	6	5	30	.2	6	\$1,644
110.52(b)	1	1	1	1	1	\$274
110.54(b)	24	1	24	2	48	\$13,152
110.54(c)	20	1	20	2	40	\$10,960
TOTALS	136		2,491		132	\$36,168

15. Reasons for Changes in Public Burden or Cost

The overall estimated burden increased by 285 hours from 524 hours up to 809 hours, because the estimated annual recordkeeping burden increased by 33 hours (from 103 hours to 136 hours), and the annual reporting burden increased by 252 hours from 421 to 673 hours. In addition, the number of responses increased by 1,648 from 843 to 2,491 responses.

This net increase reflects an increase in the estimated number of record keepers (from 103 to 136), an increase in the estimated number of annual responses to comply with 110.50(c) (from 400 to 1,800 for respondents not using a form and from 400 to 600 for respondents using their own form), a reduced burden for respondents that do not use a form from 24 minutes to 15 minutes, and a reduced burden for respondents that use their form from 24 minutes to 12 minutes. Other increases to burden were attributable to growth in the number of respondents subject to the reporting requirement in 110.23 (from 10 to 24 respondents).

The net result is an overall increase in responses of 1,545, from 946 to 2,491, and an increase in public burden of 285 hours, from 524 to 809. The change in cost also

reflects an increase in the annual labor cost for reactor and materials licensees from \$238 to \$274 per hour.

Total annual burden: 809 (136 recordkeeping hrs + 673 reporting hrs)

Total number of responses: 2,627 (2,491 responses + 136 recordkeeping)

Total number of respondents: 136

16. Publication for Statistical Use

Not applicable.

17. Reason for Not Displaying the Expiration Date

The requirement is contained in a regulation. Amending the Code of Federal Regulations to display information that, in an annual publication, could become obsolete would be unduly burdensome and too difficult to keep current.

18. Exceptions to the Certification Statement

There are no exceptions.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

Statistical methods are not used in this collection of information.